

IDAHO REAL ESTATE COMMISSION
MEETING MINUTES
October 16, 2008

Pursuant to notice given, the meeting of the Idaho Real Estate Commission (Commission) was held at The Idaho Real Estate Commission, on Thursday, October 16, 2008 at 8:30 a.m.

Commission Members Present:

Andy Enrico, Chair, Boise
Kelly Fisher, Vice Chair, Pocatello
Pam Trees, Member, Lewiston
Marvis Brice, Member, Burley
Comprising a quorum of the Commission

Members Absent:

Staff Present:

Jeanne Jackson-Heim, Executive Director
Craig Boyack, Chief Investigator
Tammy Anderson, Administrative Assistant
Neal Bernklau, Licensing Supervisor
Tammy Collier, Management Assistant

Others Present:

Kim Coster, Commission Legal Counsel
See attached list

Meeting was called to order at 8:30 a.m. by Commission Chair, Andy Enrico.

Introductions:

- a. Commissioners.
- b. Staff
- c. New Management Assistant, Tammy Collier was introduced.

Approval of Meeting Minutes: Motion was made by Kelly Fisher to approve the September 9, 2008 Commission meeting minutes. Motion carried.

Staff Reports:

The following reports were presented for members' review; copies of which are on file at the Commission office:

- **Revised August 2008 Financial Report**
- **September 2008 Financial Report**
- **Salesperson and Broker Licenses issued, September 2008**
- **Examination Statistics**
- **Complaint Summary Report**
- **Audit Summary Report**
- **Enforcement Telephone Activity Log**
- **Revised August 2008 Education Funds Awards**
- **September 2008 Education Funds Awards**
- **FY08-FY09 Analysis of Active & Inactive License Base**
- **Online Renewal Report**
- **Information and Technology Reports**

Idaho Association of REALTORS®: Jill Randall reported that IAR's® dues notices went out October 1, 2008. IAR® has installed a new records management system and their leadership conference is next week.

Online Lottery Drawing: Zackery Crist (SP33894), on inactive status, won the lottery drawing for October 16, 2008.

Commission Counsel:

- **Adoption of Pending Rule 33.0101.0801- Amending of Rule 402's List of Topics Approved for CE Credit:** Kim Coster reminded members that rulemaking had been proposed to clarify the list of topics approved for CE credit. The required Notice of Rulemaking, including the notice of the public hearing and request for comment, had been published in the September 3, 2008 Administrative Bulletin. No further comment had been received. Discussion followed. Motion was made by Pam Trees to adopt as a pending rule Docket 33.0101.0801 as originally was published. Motion carried. Kim further advised that the pending rule would become effective upon review and approval of the 2009 Legislature.

- **Draft Guideline on Agency Disclosure Brochure:** Kim Coster presented a draft of a new Guideline setting forth the Commission's position with regard to the Agency Disclosure Brochure and the record of receipt that a licensee is required to keep. Kim advised that issue, first raised by the IAR® in 2001, had been resolved by legal opinion at that time. However, because the question has been raised again, Jeanne suggested the Commission issue a written Guideline. Members agreed and asked that the matter be brought back at next month's meeting, after IAR had an opportunity to review and provide comment.
- **Resolution to adopt Procedure Permitting Non-Idaho Attorneys to Appear before the Commission:** A current case has brought to light that IREC's contested case rules do not address the admission of out-of-state attorneys to appear in cases before the Commissioners. The State Bar Commission's rule for limited admission, Rule 222, applies to courts but is widely used by Idaho's administrative agencies. However, because this is not obvious to licensees or their attorneys, Kim Coster requested that the Commission adopt a Resolution informing parties that IREC would follow the procedure. Discussion followed. Motion was made by Marvis Brice to adopt Resolution as presented. Motion carried. Members also requested that Kim begin the APA process to have the procedure in rule.

Executive Director's Report:

- **ARELLO Awards:** Jeanne Jackson-Heim presented a letter from ARELLO. Jeanne submitted the Mortgage fraud DVD, 8 hour Continuing Education module and Commissions website as entries to ARELLO for consideration. Jeanne has been advised that IREC will be recognized at ARELLO and requested the Commissioners' presence at the award breakfast.
- **Consideration of Oklahoma's Revised License Agreement:** IREC has received requests from various states that want to modify the license agreements. Jeanne stated that Oklahoma's proposed changes further erode the "license for license" status by requiring non-residents to take the state exam. However, it continues to waive the state-specific CE requirement. This is not the direction Idaho should be heading. Under the License Law, and without any agreement, an applicant holding an active, out-of-state license are entitled to a waiver of the national exam and any pre-license education; they do have to take the state exam. Accordingly, maintaining an agreement seems unnecessary. Jeanne suggested terminating the agreement. Motion was made by Kelly Fisher to terminate agreement with Oklahoma effective November 1, 2008. Motion carried.

- **Legislation of Online Conveniences Fees:** Jeanne Jackson-Heim explained the convenience fees to Commissioners and that the Governor is proposing that every agency charge this fee. Jeanne has met with Mike Gwartney about this issue and has sent informational materials to Administration Department to illustrate and support the negative impact this change would have on IREC, and describing the benefits to IREC of absorbing this fee. Discussion followed.
- **IAR Report for Core & RESPA Course and Request for Additional CP Fine Money for RESPA Course:** Jill Randall presented the IAR® report on RESPA and CORE courses offered to date. IAR® requests an additional CP fine money award in the amount of Nineteen Thousand Seven Hundred and Five Dollars (\$19,705.00) for the balance of the RESPA courses. Discussion followed. Motion was made by Marvis to approve the award of Nineteen Thousand Seven Hundred and Five Dollars (19,705.00). Motion carried.
- **Building Facility:** Jeanne Jackson-Heim asked the Commissioners if they were interested in looking for another building to lease for IREC, stating the many disadvantages we see in the current building, such as poor plumbing, lack of parking and overall age of building. Jeanne has talked with Linda Miller regarding lease and possible options for ending lease early. We have 4 more years on IREC's current lease. If we did decide to lease another building an RFP would be sent out. Discussion followed. Motion was made by Kelly Fisher to have Jeanne Jackson-Heim pursue moving IREC to another building. Motion carried.
- **Website Update:** Jeanne asked everyone to go online and check out the Education search page.
- **Surrendered License Status:** Currently IREC's website states "Terminated" license for what actually is a surrendered license. Jeanne asked whether we should call them "Surrendered" on the website instead of "Terminated". Discussion followed. Motion was made by Marvis Brice to change verbiage on website to state "Surrendered" license status instead of "Terminated". Motion carried.

Education Council and Director's Report:

- **Update on Brokerage Management:** Brokerage Management is progressing nicely. The next meeting is scheduled for October 28, 2008.
- **Update on Business Conduct & Office Operations:** BCOO Course will be piloted on October 23, 2008 and IREC hopes to launch course shortly afterwards. Discussion followed.
- **Update on Module 1 and Module 2:** Both Modules were launched last month and revisions are being made.

- **Update on Finance:** The Finance course (Broker pre-license) needs to be reviewed. Mandy will have further information at the next meeting. Discussion followed.
- **New Content Outline for National Exams:** There have been a few adjustments to the national exam content outline. Maris Cukurs and Donna Capurso participated in the content review committee for Pearson Vue.

Enforcement:

Voluntary License Surrenders: Were reviewed. Question was raised by Marvis on whether we have to accept a surrendered license. Discussion followed.

Request to Reinstate Suspended license: Wilma Courtade's license was suspended under the terms of her Stipulation and Final Order when she failed to pay her fine. Craig Boyack reported that Ms. Courtade had since fully paid the fine and costs of collection. Motion was made by Pam Trees to approve the request for reinstatement of Wilma Courtade's license. Motion carried.

CE Stipulation

Case of Staff vs. Rose C. Jesseph (Ex-Parte). The matter was presented for ex parte hearing and was tape-recorded. No testimony was taken, however, motion was made by Kelly Fisher to accept without exception the Stipulation which had been agreed to by Rose C. Jesseph and that the "Final Order" against Ms. Jesseph for having violated the following statutes: Idaho Code Section 54-2023(1)(a), failure to obtain the required continuing education in a timely manner; and Idaho Code Section 54-2060(10). Discipline was ordered as follows:

- 1.) That Rose C. Jesseph shall be issued a formal reprimand.
- 2.) That Rose C. Jesseph be required to pay a Civil fine in the amount of Five Hundred Dollar (\$500.00) by November 24, 2008.
- 3.) That Rose C. Jesseph pay the cost and attorney's fees incurred in the investigation/prosecution of this matter, in the amount of One Hundred Twenty-Five Dollars (\$125.00) by November 24, 2008.

4.) That Rose C. Jesseph and Staff of the Real Estate Commission agree that upon the full payment of the fine and cost set for the above, the Voluntary Surrender document previously executed by Ms. Jesseph is to be withdrawn, and that Ms. Jesseph may apply to receive her Idaho license upon the completion of the following requirements, which are currently required, but may at some time in the future change if Ms. Jesseph delays her re-application process:

a. If Rose C. Jesseph is currently actively licensed in the state of California, she can obtain a waiver or the national portion of the examination for application, and Idaho will waive her pre-license education;

b. Rose C. Jesseph must pass the Idaho portion of the licensing examination; and

c. Rose C. Jesseph must be fingerprinted, and have a clear record.

Motion carried. A copy of the "Final Order" is attached hereto and made a part of these minutes.

Executive Session: In accordance with section 67-2345 (1)(d) & (f), Idaho Code, a motion was made by Kelly Fisher to adjourn to executive session to review the probable cause memoranda submitted pursuant to Section 54-2058(1), Idaho Code, to review applications submitted for special consideration and waiver of licensing requirements; and applications submitted for special consideration and waiver of education certification requirements. Motion carried. Members reviewed probable cause memoranda.

Regular Session: There being no further purpose for an executive session, a motion was made by Kelly Fisher to adjourn the executive session. Motion carried.

Petition for review 08-098: Robert Crosby, Sawtooth Board, Understanding Hispanic Home buying Trends and Cultural Requirements, motion was made by Pam Trees to approve course request. Motion failed. Marvis Brice moved to approve course request as a 2 hour CE credit course. Motion carried.

Petition for review 08-099: Jill Randall, Idaho Association of REALTORS®, Avoid Closing Killers, Motion was made by Marvis Brice to approve course request. Motion carried.

Petition for review 08-100: Jerry Bowers, Genesis Training Group, Advanced Communication and Sale Skills, motion was made by Kelly Fisher to approve course request. Motion carried.

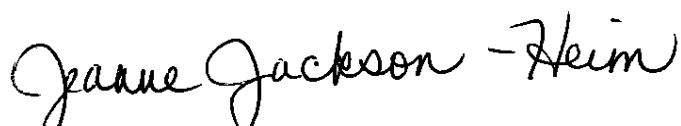
Probable Cause Memo 08-29400-08-29401 A motion was made by Pam Trees finding that the facts set forth in the memorandum of probable cause provided to them by the Executive Director, pursuant to Section 54-2058(1), are sufficient to proceed with formal action on the violations presented. Commission staff is authorized to file an administrative complaint. Motion carried.

Probable Cause Memo # 08-43700 A motion was made by Pam Trees finding that the facts set forth in the memorandum of probable cause provided to them by the Executive Director, pursuant to Section 54-2058(1), are sufficient to proceed with formal action on the violations presented. Commission staff is authorized to file an administrative complaint. Motion carried.

Special Consideration #08-028 Waive/modify experience requirements 54-2012. Following discussion and review of the documents submitted, motion was made by Kelly Fisher to grant request for exemption as a limited broker. Motion carried.

There being no further business, motion was made by Andy Enrico to adjourn the meeting at 11:35 a.m. Motion carried.

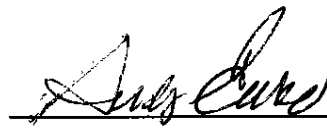
Respectfully Submitted,


Jeanne Jackson-Heim
Executive Director

JJH: tla

Attachments: Licenses Issued September 2008
FY08-FY09 Analysis of Active & Inactive License Base
Online License Reports
Complaint Summary Report
Revised August 2008, Financial Reports
September 2008 Financial Reports
Information and Technology Reports

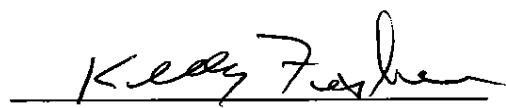
Minutes of the Idaho Real Estate Commission meeting in Boise, Idaho, on October 16, 2008, are hereby approved.



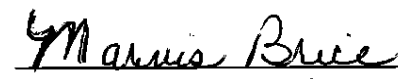
Andy Enrico, Chair



Pam Trees, Member



Kelly Fisher, Vice Chair



Marvis Brice, Member